

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION**

M.M.M., on behalf of his minor child,
J.M.A., et al.,

Case No. 3:18-cv-1832-DMS

Plaintiffs,

v.

Jefferson Beauregard Sessions, III,
Attorney General of the United States,
et al.,

Defendant.

Ms. L, et al.,

Case No. 3:18-cv-428-DMS

Plaintiff,

v.

U.S. Immigration and Customs
Enforcement, *et al.*,

Defendant.

**JOINT MOTION TO AMEND
JULY 8, 2018 PROTECTIVE
ORDER**

Plaintiffs and Defendants (collectively, the “Parties”) in the above captioned actions *M.M.M., et al. v. Jefferson Beauregard Sessions, III*, Case No. 3:18-cv-1832-DMS and *Ms. L., et al., v. U.S. Immigration and Customs Enforcement, et al.*, Case No. 3:18-cv-00428-DMS (“Litigation” or “Action”) file this Joint Motion to Amend the July 8, 2018 Protective Order. In support of the Motion, the Parties state the following:

1 1. The Parties recognize that information about putative or confirmed class
2 members and their children exchanged by the Parties in the Litigation for the purpose
3 of facilitating implementation of the Court's November 15, 2018 Order Certifying
4 the Settlement Classes and Granting Final Approval of Class Action Settlement
5 (3:18-cv-428-DMS (S.D. Cal) (ECF 321)) may include private information related to
6 individuals in the custody and care of the United States Government and that such
7 materials may reasonably, in good faith, be confidential and protected from
8 disclosure to the public or to one or more of the Parties under Rule 26(c) of the
9 Federal Rules of Civil Procedure.
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13 2. On July 8, 2018, the Court granted a Stipulated Protective Order for the
14 purpose of facilitating compliance with the Court's preliminary injunction on
15 reunification issues and to protect against unauthorized disclosure of confidential
16 documents and information during that process. (3:18-cv-428-DMS (S.D. Cal) (ECF
17 90).
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20 3. On September 12, 2018, the parties reached a settlement agreement
21 regarding asylum-related claims. On November 15, 2018, the Court certified the
22 settlement classes and granted final approval of the class settlement. ("Class Action
23 Settlement") (3:18-cv-428-DMS (S.D. Cal) (ECF 321).
24

25 4. In light of the November 15, 2018 Class Action Settlement, the Parties
26 now jointly seek to amend the July 8, 2018 Protective Order to facilitate the exchange
27 of documents and information to assist with implementation of the Class Action
28

1 Settlement, while protecting against the unauthorized disclosure of confidential
2 documents and information. For instance, class counsel may share limited class
3 member information with non-profit legal service providers and similar organizations
4 to advise class members of their rights under the settlement and assist class members
5 in completing asylum interviews and other procedures agreed to in the Class Action
6 Settlement.
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8

9 5. The Parties believe good cause exists for amending the July 8, 2018
10 Protective Order because it seeks to protect against injury caused by the
11 dissemination of protected materials. As currently worded, the July 8, 2018
12 Protective Order does not expressly facilitate and/or protect the exchange of
13 confidential documents and information for purposes of implementing the Class
14 Action Settlement. To the extent clarification is necessary, the parties seek this
15 amendment to update the July 8, 2018 Protective Order in line with recent
16 developments in the case(s), and to avoid any ambiguity that may jeopardize
17 confidential and private information. The materials to be protected may include
18 personally identifiable information, the disclosure of which could be prohibited by
19 the Privacy Act or other law. However, the Privacy Act provides, as an exception,
20 that such materials may be released “pursuant to the order of a court of competent
21 jurisdiction.” 5 U.S.C. § 552a(b)(11). An order of this Court, amending the July 8,
22 2018 Protective Order, therefore, would provide a basis for release of the requested
23 materials pursuant to the Privacy Act and Fed. R. Civ. P. 26(c). The parties also seek
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1 to protect other personal information regarding putative or confirmed class members
 2 or their children.

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 4 6. The Parties also request that the Protective Order and this Amendment
 5 apply for the same purpose in *M.M.M, et al. v. Jefferson Beauregard Sessions, III*,
 6 *Case No. 3:18-cv-1832-DMS*.

7
 8 For these reasons, the Parties respectfully request that the Court grant the
 9 Parties' Joint Motion and amend the July 8, 2018 Protective Order to incorporate the
 10 language in the Proposed Order below, and consistent with the agreed-upon terms
 11 and conditions governing the production of information in this Litigation.
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 15 March 27, 2019

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Ms. L, et al.,

Case No. 3:18-cv-428-DMS

Plaintiff,

[PROPOSED ORDER]

v.

U.S. Immigration and Customs
Enforcement, *et al.*,

Defendant.

ORDER

UPON CONSIDERATION of the Parties Joint Motion to Amend July 8, 2018
Protective Order, no opposition, and the record herein, it is, this _____ day of
_____ 2019;

ORDERED, that the Parties Joint Motion to Amend July 8, 2018
Protective Order is hereby **GRANTED**;

ORDERED, that the July 8, 2018 Protective Order, and the terms and
conditions governing the production of confidential materials and information set out

1 in that document, shall equally apply to the Parties for purposes of facilitating and
2 implementing the Court's November 15, 2018 Order Certifying the Settlement
3 Classes and Granting Final Approval of Class Action Settlement (3:18-cv-428-DMS
4 (S.D. Cal) (ECF 321)), and it is further,
5

6
7 ORDERED, that Section I of the July 8, 2018 Protective Order is
8 amended as follows (amended text is in redline):

9
10 I. Plaintiffs and Defendants (collective, the "Parties") in the above
11 captioned action *Ms. L., et al., v. U.S. Immigration and Customs*
12 *Enforcement, et al.*, Case No. 3:18-cv-00428-DMS ("Litigation" or
13 "Action") recognize that information about putative or confirmed class
14 members and their children exchanged by the Parties in the Litigation
15 for the purpose of facilitating compliance with the Court's preliminary injunction order and/or implementing the Court's November 15, 2018
16 Order Certifying the Settlement Classes and Granting Final Approval of
17 Class Action Settlement (3:18-cv-428-DMS (S.D. Cal) (ECF 321)) may
18 include private information related to individuals in the custody and care
19 of the United States Government and that such materials may
20 reasonably, in good faith, be confidential and protected from disclosure
21 to the public or to one or more of the Parties under Rule 26(c) of the
22 Federal Rules of Civil Procedure.

23
24 ORDERED, that Paragraph 1 of the July 8, 2018 Protective Order is
25 amended as follows (amended text is in redline):

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27 **1. Scope.** The following terms govern with respect to class
28 information exchanged by the Parties in the Litigation for the purpose
of facilitating compliance with the Court's preliminary injunction order
and/or implementing the Court's November 15, 2018 Order Certifying
the Settlement Classes and Granting Final Approval of Class Action
Settlement (3:18-cv-428-DMS (S.D. Cal) (ECF 321)) (collectively
"Protected Material").

ORDERED, that Section 6(j) of the July 8, 2018 Protective Order is amended

as follows (amended text is in redline):

6. Access to Protected Material. . . .

j. Any individuals or persons who Class Counsel designates for the purpose of facilitating the reunification of Class Members and their children and/or implementing the Court's November 15, 2018 Order Certifying the Settlement Classes and Granting Final Approval of Class Action Settlement (3:18-cv-428-DMS (S.D. Cal) (ECF 321)), including (but not limited to) nonprofit organizations, lawyers, faith-based groups, shelters, or any other organization or individuals who may be able to assist in ~~that reunification~~ process. Given the urgency of the deadlines in the Court's preliminary injunction order, the individuals or persons described in this paragraph may receive a limited set of PROTECTED MATERIAL as follows prior to executing Exhibit A, the Acknowledgment, as long as the information is treated as protected under this Order, and an Acknowledgment is signed within a reasonable time thereafter. Information which may be shared for the purpose of facilitating the reunification of Class Members and their children and/or implementing the Court's November 15, 2018 Order Certifying the Settlement Classes and Granting Final Approval of Class Action Settlement (3:18-cv-428-DMS (S.D. Cal) (ECF 321)) includes Class Members' names and the name(s) of the class member's child(ren); Alien Number for the Class Member and his or her child(ren); detention location or other location information regarding the Class Member and his or her child(ren). The individuals or persons described in this paragraph may receive any additional PROTECTED MATERIAL necessary to assist in facilitating reunification and/or implementing the Court's November 15, 2018 Order Certifying the Settlement Classes and Granting Final Approval of Class Action Settlement (3:18-cv-428-DMS (S.D. Cal) (ECF 321)) related to the class member(s) they are serving or being consulted to serve after signing the Acknowledgment. The individual or organization may not receive information about any other class members.

ORDERED, that Paragraph 13 of the July 8, 2018 Protective Order is amended as follows (amended text is in redline):

13. This Order Only Applies To The Exchange of Information About Putative or Confirmed Class Members and Their Children For The Purpose Of Facilitating Compliance With The Court's

1 **Preliminary Injunction Order and/or implementing the Court's**
2 **November 15, 2018 Order Certifying the Settlement Classes and**
3 **Granting Final Approval of Class Action Settlement (3:18-cv-428-**
4 **DMS (S.D. Cal) (ECF 321)).** Nothing contained in this Order shall
5 restrict or limit any Party's right to present Protected Material to the
6 Court during a trial in the Action. The use of Protected Material at trial
7 shall be governed by the pretrial order.

8 ORDERED, that any exchange or dissemination of confidential
9 materials and information are subject to the conditions set forth in the July 8, 2018
10 Protective Order, inclusive of the new amended terms/provisions relating to the
11 Protective Order's broader scope and applicability as a result of the Court's
12 November 15, 2018 Class Action Settlement. This Order shall be construed as a
13 lawful order pursuant to the Privacy Act permitting release consistent with the terms
14 of this Order.

15
16 IT IS SO ORDERED

17
18 Date: _____

19 Hon. Dana M. Sabraw
20 United States District
21 Judge